

This version of the code is dated April 6, 2022 and reflects the Planning Commission recommendation with some additional edits. Changes recommended by the Planning Commission have been incorporated into this version. Additional edits made since the Planning Commission's recommendation are shown in track changes. Areas of the code that are highlighted in grey indicated sections that are clearly not applicable outside the city limits, inside the Urban Growth Boundary (UGB).

## **5.7-100                      Annexations**

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### **5.7-105              Purpose**

- A.**      Clearly define the process for the review of proposals to annex territory to the City;
- B.**      Provide a process for the subsequent withdrawal of territory from special service districts; and
- C.**      Provide a process for City approval of annexations to certain special districts, including but not limited to: the Lane County Metropolitan Wastewater District; and the Willamalane Park and Recreation District. (6212)

### **5.7-110              Applicability**

- A.**      These regulations apply to annexation applications as specified in SDC 5.7-125; and
- B.**      Other annexation proposals permitted by ORS 222 shall be processed as provided in ORS 222. (6212)

### **5.7-113              Definitions**

The following definitions are specific to this Section:

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**Affected City.** A City, City-County or Cities, named in a petition, for which a boundary change is proposed or a City, City-County or Cities, named in an ordinance or order, for which a boundary change is ordered.

**Affected County.** Each county that contains any territory for which a boundary change is proposed or ordered.

**Affected District.** Each special district named in a petition that contains or would contain territory for which a boundary change is proposed or ordered. Affected district also means a district or districts, named in a petition, for which a boundary change is proposed or ordered.

**Affected Territory.** Territory described in a petition. Affected territory also means an area within the urban growth boundary of a City that is otherwise eligible for annexation to a City where there exists an actual or alleged danger to public health as defined in ORS 222.

**Annexation.** The attachment or addition of territory to, or inclusion of territory in, an existing City or district.

**Annexation Agreement.** A written agreement between the City and owners of land requesting annexation that states the terms, conditions and obligations of the parties to mitigate fiscal and service impacts to the City associated with the annexation and future development of the property. The agreement may be used to ensure annexation consistent with the Metro Plan.

**Annexation Contract.** A contract between a City and a landowner relating to extraterritorial provision of service and consent to eventual annexation of property of the landowner. The contract shall be recorded and shall be binding on all successors with an interest in that property.

**Boundary Change.** An action by the City Council duly authorized by ORS 222 that results in the adjustment of the city limits or the boundary of a public service district.

**Cadastral Map.** A map prepared by the Lane County Assessor's office showing bearings and distances and the boundaries of parcels, lots and tracts of land.

**Consent to Annex.** Forms provided by the affected City that must be included with certain annexation and extraterritorial extension applications which include the signature of the owner of part or all of the affected territory, and electors, if any, as applicable.

**Contiguous.** Territory that abuts the city limits at any point along the property's exterior boundary or separated from the city limits by a public right-of-way or a stream, bay, lake, or other body of water.

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**Effective Date of Annexation.** The effective date of the boundary changed as prescribed in ORS 222.040, 222.180 or 222.465.

**Elector.** An active registered voter at an address within the affected territory.

**Extraterritorial Connection of Service.** The connection of water or sanitary sewer service to developed property located outside the city limits and within the urban growth boundary.

**Extraterritorial Extension of a Facility.** The extension of a water or sanitary sewer line outside the city limits and within the urban growth boundary.

**Extraterritorial Service/Facility Contract.** A contract between the owner of property proposed to be served and the City specifying and identifying service provisions, obligations of the City and cost obligations of the owner of the affected territory. The decision to enter into such a contract shall be initiated at the sole discretion of the City Council.

**Filing.** The submittal of materials to initiate a boundary change process.

**Initiation Method.** Any of the following descriptions of participants and documentation necessary for commencement of City annexation process:

- A.** All of the owners of land in the territory proposed to be annexed, and not less than 50 percent of the electors, if any, residing in the territory proposed to be annexed, have consented in writing to the annexation and file a statement of their consent to annexation with the City;
- B.** More than half of the owners of land in the territory proposed for annexation who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation and file a statement of their consent to annexation with the City;
- C.** A majority of the electors registered in the territory proposed to be annexed and owners of more than half of the land in that territory consent in writing to the annexation and file a statement of their consent to annexation with the City;
- D.** The City Council may, without any vote or any consent by the owners, annex territory within the urban growth boundary if it is found that a danger to public health exists within that territory and that such condition can be removed or alleviated by sanitary, water or other facilities ordinarily provided by incorporated cities; or
- E.** The City Council may, by resolution, initiate annexation of public right-of-way or other public land contiguous to the city limits.

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**Legal Description.** As defined in ORS 308.225(2).

**Notice.** An ordinance, resolution, order, or other similar matter providing notice authorized or required to be published, posted, or mailed.

**Owner.** The legal owner of record according to the latest available Lane County Tax assessment roll or, where there is an existing recorded land contract that is in force, the purchaser thereunder. If there is a multiple ownership in a parcel of land, each consenting owner is counted as a fraction to the same extent as the interest of the other owners and the same fraction is applied to the parcel's land mass and assessed value for purposes of the consent petition. If a corporation owns land in the affected territory, the corporation must be considered the individual owner of that land.

**Petition.** Any document such as signature sheets, resolutions, orders, or articles of incorporation, required for initiating an annexation, withdrawal or provision of extraterritorial services. In the case of a petition initiated by property owners, the person signing on behalf of a corporation or business must provide evidence showing that person is authorized to sign legal documents for the firm.

**Proceeding.** A proceeding to consider a boundary change.

**Proposal.** The set of documents required to initiate proceedings for a boundary change.

**Special Service District.** Any of the districts identified in ORS 198.

**Urban Growth Boundary.** A site-specific line, delineated on a map or by written description that separates urban and urbanizable land from rural lands that is part of a comprehensive plan.

**Withdrawal.** The detachment, disconnection, or exclusion of territory from an existing City or district. (6212)

<b>5.7-115</b>	<b>Review</b>
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Annexation applications are reviewed under Type 4 procedure, without Planning Commission consideration.

**EXCEPTION:** A single lot/parcel adjacent to the city limits and city services and not dividable by Partition or Subdivision may be annexed by the City Council without a public hearing. (6212)

<b>5.7-120</b>	<b>Development Issues Meeting</b>
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The applicant shall schedule a Development Issues Meeting prior to filing an annexation application where staff will inform the applicant of the annexation application submittal requirements and procedures specified in this Section, unless waived by the Director. (6212)

<b>5.7-125</b>	<b>Annexation Initiation and Application Submittal</b>
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- A.** An annexation application may be initiated by City Council resolution, or by written consents from electors and/or property owners as provided below.
- B.** In addition to the provisions specified in SDC 5.4-105, an annexation application shall include the following:
  - 1.** A list of all owners, including partial holders of owner interest, within the affected territory, indicating for each owner:
    - a.** The affected tax lots, including the township, section and range numbers;
    - b.** The street or site addresses within the affected territory as shown in the Lane County Regional Land Information Database system (RLID);
    - c.** A list of all eligible electors registered at an address within the affected territory; and
    - d.** Signed petitions, as may be required.
  - 2.** Written consents on City approved petition forms that are:
    - a.** Completed and signed, in accordance with ORS 222.125, by:
      - i.** All of the owners within the affected territory, and
      - ii.** Not less than 50 percent of the eligible electors, if any, registered within the affected territory; or
    - b.** Completed and signed, in accordance with ORS 222.170, by:
      - i.** More than half the owners of land in the territory, who also own more than half the land in the contiguous territory and of real property therein representing more than half the assessed value of all real property in the contiguous territory (ORS 222.170(1)); or

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- ii. A majority of the electors registered in the territory proposed to be annexed and a majority of the owners of more than half the land (ORS 222.170(2)).
  - iii. Publicly owned rights-of-way may be added to annexations initiated by these 2 methods without any consents;
- 3. A City Council resolution to initiate a boundary change, including but not limited to, publicly owned rights-of-way.
- 4. In lieu of a petition form described in Subsection 2 above, an owner's consent may be indicated on a previously executed Consent to Annex form that has not yet expired as specified in ORS 222.173 or previously executed Annexation Agreement consenting to the annexation of territory.
- 5. Verification of Property Owners form signed by the Lane County Department of Assessment and Taxation.
- 6. A Certificate of Electors form signed by the Lane County Elections Noter Registration Department.
- 7. An ORS 197.352 waiver form signed by each owner within affected the territory.
- 8. A waiver form signed by each owner within the affected territory as allowed by ORS 222.173.
- 9. A legal description of the affected territory proposed for annexation consistent with ORS 308.225 that will include contiguous or adjacent right-of-way to ensure contiguity as required by ORS 222.111.
- 10. A Lane County Assessor's Cadastral Map to scale highlighting the affected territory and its relationship to the city limits.
- 11. A list of the districts providing services to the affected territory.
- 12. A public/private utility plan describing how the proposed affected territory can be served by a full/minimum level of key urban facilities and services.
- 13. A signed Annexation Agreement, if required by the Director, to resolve fiscal impacts upon the City caused by the proposed annexation. The Annexation Agreement shall address, at a minimum, connection to and extension of public facilities and services. Connection to public facilities and services shall be at the discretion of the City, unless otherwise required by ORS. Where public facilities

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and services are available and can be extended, the applicant shall be required to do so.

14. A written narrative addressing the proposal's consistency with the approval criteria specified in SDC 5.7-140.
15. A fee as established by Council Resolution. (6212)

<b>5.7-130</b>	<b>Notice</b>
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Notice requirements for annexations shall be as specified below:

- A. Mailed Notice. Notice of the annexation application shall be mailed at least 14 days prior to the public hearing date to:
  1. The applicant, property owner and electors in the affected territory;
  2. Owners and occupants of properties located within 300 feet of the perimeter of the affected territory;
  3. The neighborhood group or community organization officially recognized by the City that includes the affected territory;
  4. Affected special districts and all other public utility providers; and
  5. Lane County Land Management Division, Lane County Elections, and the Lane County Board of Commissioners.
- B. Newspaper Notice. Notice of the public hearing at which an annexation application will be considered shall be published in a local newspaper with general circulation once each week for 2 successive weeks prior to the hearing date; and
- C. Posted Notice. Notice of the public hearing at which an annexation application will be considered shall be posted in 4 public places in the City for 2 successive weeks prior to the hearing date.
- D. Notice Contents. Notice of the public hearing at which an annexation application will be considered shall include:
  1. The Lane County Tax Assessor's map and tax lot numbers, street addresses or other easily understood geographical references of the affected territory;
  2. A statement that the Director's recommendation will be available 7 days prior to the public hearing; and

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3. The date, time and place the City Council will hold a public hearing to consider the annexation application. (6212)

<b>5.7-135</b>	<b>Recommendation to City Council</b>
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The Director shall forward a written recommendation on the annexation application to the City Council based on the approval criteria specified in SDC 5.7-140. (6212)

<b>5.7-140</b>	<b>Criteria</b>
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An annexation application may be approved only if the City Council finds that the proposal conforms to the following criteria:

- A. The affected territory proposed to be annexed is within the City's urban growth boundary; and is
  1. Contiguous to the city limits; or
  2. Separated from the City only by a public right-of-way or a stream, lake or other body of water.
- B. The proposed annexation is consistent with applicable policies in the Metro Plan and in any applicable refinement plans or Plan Districts;
- C. The proposed annexation will result in a boundary in which the minimum level of key urban facilities and services, as defined in the Metro Plan, can be provided in an orderly, efficient and timely manner; and
- D. Where applicable, fiscal impacts to the City have been mitigated through an Annexation Agreement or other mechanism approved by the City Council. (6212)

<b>5.7-145</b>	<b>City Council Decision</b>
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City Council approval of annexation applications shall be by Ordinance. (6212)

<b>5.7-150</b>	<b>Zoning</b>
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Currently, all unincorporated land within the City's urban growth boundary is zoned in compliance with the land use districts listed in this Code and is designated in compliance with the Metro Plan. Unincorporated land within the urban growth boundary is distinguished from



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land within the city limits by the addition of the Urban Fringe (UF-10) Overlay District established in SDC 3.3-800. Upon approval of the annexation by the City Council:

- A.** The UF-10 Overlay District designation shall cease to apply automatically; and
- B.** The current zoning shall apply, unless a zoning map amendment has been submitted and approved by the City.
- C.** The Director will not deem an application complete for a zoning map amendment until the annexation has been approved by the City Council and becomes effective, as that term is described in SDC 5.7.113. (6212)

<b>5.7-155</b>	<b>Effective Date and Notice of Approved Annexation</b>
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- A.** The effective date of an approved annexation shall be set in accordance with ORS 222.040, 222.180 or 222.465.
- B.** Notice of Approved Annexation.
  - 1.** Not later than 10 working days after the passage of an Ordinance approving an annexation, the Director shall:
    - a.** Send by certified mail a notice to public utilities (as defined in ORS 757.005), electric cooperatives and telecommunications carriers (as defined in ORS 133.721) operating within the City; and
    - b.** Mail a notice of the annexation to the Secretary of State, Department of Revenue, Lane County Clerk, Lane County Assessor, affected districts, and owners and electors in the affected territory. The notice shall include:
      - i.** A copy of the Ordinance approving the annexation,
      - ii.** A legal description and map of the annexed territory,
      - iii.** The findings, and
      - iv.** Each site address to be annexed as recorded on Lane County assessment and taxation rolls or found in RLID;
    - c.** The notice to the Secretary of State will also include copies of the petitions signed by electors and/or owners of the affected territory as required in SDC 5.7-125.

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2. If the effective date of an annexation is more than 1 year after the City Council passes the Ordinance approving it, the Director shall mail a notice of the annexation to the Lane County Clerk not sooner than 120 days and not later than 90 days prior to the effective date of the annexation. (6212)

<b>5.7-160</b>	<b>Withdrawal from Special Service Districts</b>
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- A. Withdrawal from special districts may occur concurrently with the approved annexation ordinance or after the effective date of the annexation of territory to the City. The Director shall recommend to the City Council for consideration of the withdrawal of the annexed territory from special districts as specified in ORS 222.
- B. Withdrawal from special districts processed separate from the process annexing the territory to the City requires a Public Hearing with notice as required in SDC 5.7-130.
- C. Criteria. In determining whether to withdraw the territory, the City Council shall determine whether the withdrawal is in the best interest of the City.
- D. Effective Date. The effective date of the withdrawal shall be as specified in ORS 222.465.
- E. Notice of Withdrawal. Notice will be provided in the same manner as specified in SDC 5.7-150. (6212)

<b>5.7-165</b>	<b>Appeals</b>
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Appeals of the City Council decision shall be to the Land Use Board of Appeals, as specified in SDC 5.1-140G. (6212)